



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TWELVE OAKS MEDICAL CENTER
FRANCIS ORR & TOTUSEK LLP
103 EAST VIRGINIA SUITE 203
MCKINNEY TX 75069

Carrier's Austin Representative Box
#54

MFDR Date Received
MAY 21, 2007

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-08-2031-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated November 5, 2007: "The amount of payment received by the Hospital from Texas Mutual Insurance Co. was \$13,167.65...Please be advised that such payment was not made in accordance with either DWC guidelines...This bill is in excess of the \$40,000 stop-loss threshold. ACIHFG defines fair and reasonable payment as calculated at 75% for the entire admission ($100,904.27 \times 75\% = \$75,678.20$). This amount, less Texas Mutual Insurance Co.'s payment of \$13,167.65, leaves a remaining balance due of \$62,510.65 under the ACIHFG."

Requestor's Supplemental Position Summary Dated November 21, 2007: "As required by law, Twelve Oaks Medical Center billed its usual and customary charges for its services. The total sum billed was \$100,904.27...The claim was processed on January 24, 2007, and payment was subsequently issued in the amount of \$13,167.76...such payment was **not** made in accordance with DWC guidelines...This bill is in excess of the \$40,000 stop-loss threshold, even excluding implant fees. Implants are not to be paid at cost plus ten percent (10%), as applicable to lesser per diem claims. ACIHFG defines fair and reasonable payment as calculated at 75% for the entire admission ($\$100,904.27 \times 75\% = \$75,678.20$), less Texas Mutual's payment of \$13,167.76 leaving a remaining balance due of \$62,510.44 due under DWC Stop-loss guidelines."

Amount in Dispute: \$62,510.65

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated December 13, 2007: "The requestor billed to incredible amount of \$100,904.27 for a three day admission...The requestor believes it is entitled to the stop loss exception simply because its bill is in excess of \$40,000.00. Texas Mutual does not...Texas Mutual reviewed the medical record, the operative report, and discharge summary from the hospital and found on unusually extensive or costly services necessary to treat the claimant...Texas Mutual audited the bill, concluded it did not meet either stop loss exception criteria, and reimbursed the requestor through the per diem method. Given the above facts Texas Mutual believes no further payment is due."

Respondent's Supplemental Position Summary Dated September 7, 2011: "Texas Mutual's peer review of the admission concludes there was nothing unusually extensive or costly about this elective admission, that the surgical procedure was a straightforward two-level spinal fusion, and that no comorbid health conditions were identified that impacted the patient's hospital stay...The requestor's DWC-60 packet contains no information substantiating its position (a) that the stop-loss exception has only to exceed \$40,000.00 in audited charges and (b) that the admission was unusually extensive or costly. Therefore, no additional payment is due."

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
November 27, 2006 through November 30, 2006	Inpatient Hospital Services	\$62,510.65	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
3. 28 Texas Administrative Code §134.1, 31 *Texas Register* 3561, effective May 2, 2006, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- BILLED CHARGES DO NOT MEET THE STOP-LOSS METHOD STANDARD OF THE 08/01/97 ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE. THE CHARGES DO NOT INDICATE AN UNUSUALLY COSTLY OR UNUSUALLY EXTENSIVE HOSPITAL STAY. THE INTENT OF STOP-LOSS PAYMENT IS TO COMPENSATE HOSPITALS FOR INPATIENT STAYS THAT ARE EITHER COSTLY TO THE FACILITY BY AN UNUSUALLY LONG LENGTH OF STAY OR THE PROVISION OF UNUSUALLY COSTLY TYPES OF SERVICES. THE PROVISION OF IMPLANTABLES THROUGH THE FACILITY DOES NOT FIT EITHER OF THESE SITUATIONS.
- CAC – W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- CAC – W10 – NO MAXIMUM ALLOWABLE DEFINED BY FEE GUIDELINE. REIMBURSEMENT MADE BASED ON INSURANCE CARRIER FAIR AND REASONABLE REIMBURSEMENT METHODOLOGY.
- CAC – 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- 426 – REIMBURSED TO FAIR AND REASONABLE.
- 480 – REIMBURSEMENT BASED ON THE ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE PER DIEM RATE ALLOWANCES.
- 730 – DENIED AS INCLUDED IN PER DIEM RATE.

Issues

1. Did the respondent provide sufficient explanation for denial of the disputed services?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for

reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals’ November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$100,904.27. The Division concludes that the total audited charges exceed \$40,000.
2. The requestor in its position statement presumes that it is entitled to the stop loss method of payment because the audited charges exceed \$40,000. As noted above, the Third Court of Appeals in its November 13, 2008 opinion rendered judgment to the contrary. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services.” The requestor failed to demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 Texas Administrative Code §134.401(c)(6).
3. In regards to whether the services were unusually costly, the requestor presumes that because the bill exceeds \$40,000, the stop loss method of payment should apply. The Third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The requestor failed to demonstrate that the particulars of the admission in dispute constitutes unusually costly services; therefore, the division finds that the requestor failed to meet 28 Texas Administrative Code §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that “The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” The length of stay was three days. The surgical per diem rate of \$1,118 multiplied by the length of stay of three days results in an allowable amount of \$3,354.00.
 - 28 Texas Administrative Code §134.401(c)(4)(A), states “When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274).”
 - A review of the submitted medical bill indicates that the requestor billed revenue code 278 for Implants at \$32,856.26.
 - The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	Quantity	Cost Invoice	Cost + 10%
8.0mm X 40mm CLI	24	No support for cost/invoice	\$0.00

- 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed \$251.00/unit for Kanamycin 1gm and \$637.00/unit for Hespan 500ml. The requestor did not submit documentation to support what the cost to the hospital was for these items billed under revenue code 250. For that reason, additional reimbursement for these items cannot be recommended.

The division concludes that the total allowable for this admission is \$3,354.00. The respondent issued payment in the amount of \$13,167.55. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

_____	_____	12/19/2013
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	12/19/2013
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.